

HOW TO RESPOND TO A DOMESTIC VIOLENCE PROTECTIVE ORDER AGAINST YOU

The most important thing is to follow the order. Even if you disagree with what the petitioner said or the reason the order was issued. Even if you believe that you are the real victim of domestic violence. **Even if the petitioner invites you to have contact or says it is okay to ignore the order.** You must still follow the order or you could be arrested and charged with a crime.

These instructions explain the possible terms and consequences of the protective order, how to contest a protective order if you choose to, and how you can ask to change or end the protective order if you choose to. If you would like to file for your own protective order, see *Instructions: How to Get a Domestic Violence Protective Order* (form [DV-150](#)).

If you have questions or if you need an interpreter, ask your local court for help.

What is a Domestic Violence Protective Order?

- A protective order is signed by a judge and orders you to do or not do certain things. For example, protective orders commonly tell you to stay away from the other person and not to contact the other person.
- Asking for a protective order is **not** the same as reporting a crime to the police. Protective orders are civil cases, however, there may also be a criminal case that involves the same alleged event. **IMPORTANT:** If you also have a “no contact” or other protective order as part of a criminal case, you must follow **both** orders. If one order is more restrictive than the other, follow the most restrictive order.
- These instructions explain how to respond if someone asks for a domestic violence protective order against you. You can find more information at [ak-courts.info/pub23](#).

Common Terms

Petitioner. The “petitioner” is the person who is protected by the protective order. A parent or legal guardian may file the petition on behalf of a minor child. A legal guardian may file the petition on behalf of an incapacitated adult.

Respondent. The “respondent” is the person that the petitioner asked to be protected from. If you were served with the protective order, then you are the respondent.

Types of Protective Orders.

- An **Emergency Protective Order** lasts for 72 hours. It can only be filed by law enforcement on behalf of the petitioner, and it is based only on information provided by the police officer or trooper. The petitioner cannot extend an emergency order and the court is unlikely to be able to hear a request to modify or dissolve it before it expires on its own. Therefore, if you receive one of these orders, you do not need to do anything in response. You should simply follow it during the time it is in effect.
- A **Short-Term Protective Order** (also called an “ex parte” order) lasts for up to 20 days. It is usually issued based only on what the petitioner wrote in the petition and testified about at the hearing, if there was a hearing.
- A **Long-Term Order** can last up to one year. A judge can only grant a long-term order after a hearing. You must get at least 10 days’ notice of the court hearing and have a chance to speak at the hearing. If you choose not to go to the hearing, the judge can still grant the order.

- Both a **Short-Term and a Long-Term Order**. The petitioner can ask for both of these types of orders at the same time. Therefore, the court may have issued a short-term protective order already, and also scheduled a long-term hearing to decide on the long-term order. Sometimes, a person may have asked for a short-term protective order against you that was denied by the judge, but the judge still set a hearing to decide on a long-term protective order.

What are the consequences of having a protective order issued against me?

A civil protective order is not a criminal case. The petitioner may choose to report the incident to the police, but only the police or the prosecutor can decide whether to file criminal charges. If a criminal case is filed, you will get notice of those charges separately.

A protective order cannot order you to do jail time or to pay a fine, however, if you do not follow the order, then you could be charged with a crime called "Violating a Protective Order." If you are convicted, this crime has a maximum jail sentence of one year and a maximum fine of \$25,000.

IMPORTANT: You can be convicted of the crime of violating a protective order, **even if** the court later finds that the underlying event that led to the protective order didn't happen or wasn't proven at a contested hearing. In other words, the events that led to issuing the protective order and the question of whether you are following the protective order are two separate things. You **must** follow the protective order, even if you disagree with it. If you want to contest the order itself, see the sections on modifying the order and on preparing for your long-term hearing on page 4.

Two other legal consequences to be aware of if you are the respondent in a **long-term** domestic violence protective order (these do not apply to 72-hour emergency or 20-day ex parte orders):

- (1) Under federal law, you may be prohibited from owning or possessing firearms. Whether this law applies depends on the type of relationship you have with the petitioner.
- (2) Under Alaska law, the court may not be able to give you custody or unsupervised visitation with your children in a custody or divorce/dissolution case, until you prove that you have done certain steps for rehabilitation. This applies even if the people in the protective order case are unrelated to the children at issue in the custody or divorce/dissolution case.

How will I get a copy of the protective order?

You should be given a copy of the protective order by law enforcement (local police, state troopers, VPSO, etc.). This is called "service." The officer should verbally explain the terms of the protective order to you, but it is your responsibility to read it yourself and to follow all of the specific orders in it. If you do not, you could be arrested and charged with a crime.

The police may also serve you with a notice that tells you about a future court date for a hearing. Sometimes, this notice will be part of the protective order, and sometimes it will be on a separate document. And in some cases, you may **only** get a notice for the hearing and no protective order (for example, if the judge denied the petitioner's request for a short-term order, but still set a hearing date for the long-term order request). It is important to remember the date and time of the court hearing—this is your chance to tell your side of the story if you want to contest the protective order. If you fail to attend the hearing, the judge will hold it without you as long as you had notice.

If you have found out about the protective order or about the hearing some other way, but did not get officially served by law enforcement, you can contact your local police or troopers to get a copy. You can also contact the court that issued the order for more information. Even before you are officially served with the order, it is a good idea to avoid contact with the person who asked for a protective order. Continuing to have unwanted contact with the petitioner may be evidence used against you at the long-term hearing.

The officer who served you with the protective order should also have given you a copy of the petition that the petitioner filed. This is so that you can understand the allegations against you, and you will be able to better contest the order if you choose to. If you did not get a copy of the petition, contact the court that issued the order.

What does the petitioner need to prove to get a protective order?

First, the petitioner must have a certain type of **relationship** with you. There is a list of the qualifying relationships on page 5 of these instructions.

Second, the petitioner must prove that you committed a “**crime of domestic violence**.” The petitioner does not need to name the crime. The judge will decide whether a crime occurred based on the petitioner’s description of what happened. There is a list of domestic violence crimes at the end of these instructions.

What type of protections can the petitioner get?

At a minimum, a protective order tells you not to commit domestic violence, stalking, or harassment against the petitioner, or threaten to do so. Usually, there will also be restrictions on contact (including no contact at all) with the petitioner. Read your order carefully to understand what you cannot do. If something in the protective order is ambiguous or unclear, err on the side of caution and follow the more restrictive interpretation. You can always file a request with the court to clarify something in the order that you do not understand (see the “modify” question on page 4 for more information).

Some protections are only available in a long-term protective order (for example, restrictions on possessing firearms or reimbursements for costs of the domestic violence). Read the petition to see what other protections the petitioner asked for in a long-term order.

If you and the petitioner have children together, the judge may have entered a temporary custody, visitation, and/or child support order. The terms of the protective order **override** any orders in other civil cases (such as custody or divorce cases). Therefore, you should follow the custody schedule and other terms of the protective order (such as rules about exchanging the children) while it is in place.

The protective order may give the petitioner possession of your shared home/residence, pets, and other personal belongings. You are required to turn these items over to the petitioner while the order is in effect, regardless of ownership.

How do I get my own personal belongings that are in petitioner’s possession?

If the protective order already allows for a police-assisted “civil standby” (#5 in the “Writ of Assistance” section near the end of the order), then contact local law enforcement to arrange a time to do this. It is best to try and do this during the daytime, when officers are usually less busy. You will only get about 15 minutes, so prioritize the most important items that you need. If the petitioner is present, do not speak directly to the petitioner. Address your questions or concerns to the officer. The officer will not allow you to take anything that the petitioner objects to.

If the judge did not check the box on the protective order that allows the police to help you get your belongings (or if you need to go a second time), then you will need to ask the court for permission first. See the "modify" section on page 4 for information on how to change the protective order.

How do I contest (explain to the court that I disagree with) the protective order?

If there is a short-term (20-day) order against you, you have two options:

- (1) Ask to modify or dissolve the current short-term order. See the section below for more information.
- (2) If there is a long-term hearing scheduled, abide by the terms of the short-term order and wait to contest the allegation at the long-term hearing. Keep in mind that there are different standards of proof for each type of protective order. For a short-term order, the court must only find "probable cause" to issue the order and is only hearing from one side. Before a long-term order is issued, the court will hear from both you and the petitioner. Additionally, the petitioner must prove by a "preponderance of evidence" that the domestic violence occurred. This means the court will weigh both sides and determine what is more likely than not (or just over 50%) to have happened. For more information on preparing for the long-term hearing, see ak-courts.info/pub23.

If there is a long-term (one-year) order against you, you can ask to modify or dissolve the current long-term order. See the section below for more information.

How do I ask the court to modify or dissolve the protective order?

After the judge issues the protective order, you can ask the judge to:

- change (modify) the order. This means the order will remain in place, but you would like to adjust some of the protections or restrictions that are ordered. For example, you want a different visitation schedule with the children, or you need some limited communication with the petitioner to discuss financial matters. Use *Request to Modify Protective Order* (form [DV-131](#) or [DV-131M](#)).
- end (dissolve) the order. This means that the order would go away completely. If the petitioner does not agree to this, you would have the burden to prove that the court made an error in issuing the order in the first place. Use *Request to Dissolve Protective Order* (form [DV-133](#) or [DV-133M](#)).

These forms are available in paper copy at the court clerk's office, and they are available online at ak-courts.info/dvforms.

For short-term (20-Day) orders, the court will usually hold a hearing on the request within 72 hours. Make sure that you keep your contact information (especially telephone numbers and email addresses) up to date so that you receive notice of the hearing. If you want your contact information to be kept confidential from the petitioner, ask the court clerk how to do this. For long-term orders, the court will usually hold a hearing within 2-4 weeks after you file your request. You must show up at the hearing or your request will be denied.

IMPORTANT: Continue to follow the protective order until and unless the judge changes or ends it in writing. Also, even if the order is modified or dissolved in the civil protective order case, it does **not** change the orders in any criminal case you may have. Similarly, if an associated criminal case is dismissed, or the no contact orders are changed in the criminal case, then it does **not** change the civil protective order. Any changes made are only valid in the case where they are made.

CRIMES INVOLVING DOMESTIC VIOLENCE

To qualify as a domestic violence crime:

- A crime must be committed or attempted; and
- The crime must have been committed by one household member against another household member; and
- The crime must be one of the crimes listed in the Alaska statute, or a violation of a similar law of another city or state.

Definition of “household members” under the Alaska domestic violence laws:

(1) Adults or minor children who are one or more of these:

- current or former spouses
- live together or have lived together in the past
- are in a dating or sexual relationship (or have been in the past)
- are related by blood or adoption up to the “fourth degree of consanguinity”
- are related or formerly related by marriage
- have a child together

(2) Minor children of a person in any of the relationships in section (1).

List of crimes that qualify for a domestic violence protective order:

Assault is when one person physically injures another person, or when one person threatens to physically injure another person and could immediately carry out the threat. If there was a threat, you may be able to get a protective order even if the respondent did not physically injure you.

Arson or Criminally Negligent Burning is when a person damages another person’s property by starting a fire or explosion. It is also arson to damage your own property by fire or explosion if it places another person in danger of serious physical injury.

Burglary is when someone enters or remains unlawfully in a building planning to commit a crime in the building.

Criminal mischief is when one person purposefully damages another person’s property. Criminal mischief may still occur if the person jointly owns the property that was damaged.

Criminal trespass is when someone enters or remains unlawfully on land, in a home, or in a vehicle.

Cruelty to pet is when someone knowingly kills or injures an animal that is a pet, with the intent to intimidate, threaten, or terrorize another person.

Custodial interference is when a family member takes and keeps a child without any legal right to do so, **and** the person intends to keep the child from the lawful guardian for an extended period of time. An example is a parent who takes a child out of state to keep the child away from the other parent for a long time, with no legal right to do so. It is **not** custodial interference when a parent fails to return the child at the agreed-upon time.

Extortion and coercion are crimes that are commonly called “blackmail.” They involve someone causing or threatening physical injury or other types of harm to get another person’s property, or to make another person do something they do not want to do. An example is someone threatening to post something embarrassing about you on the internet unless you give the person money.

Harassment is when someone, with the intent to harass or annoy another person:

- calls on the phone and will not hang up, so that the other person cannot make or receive calls; or
- makes repeated telephone calls at extremely inconvenient hours; or
- makes a call or electronic communication that is anonymous or obscene, or that threatens physical injury or sexual contact; or
- publishes or distributes photos, pictures, or videos that show the other person's genitals, anus, or female breast, or that show the other person doing a sexual act.

Kidnapping is when a person holds another person against that person's will. Usually, it also means the person is planning to physically or sexually assault the other person, creates a significant risk that the other person will be seriously injured, or conceals the other person so that there is a significant risk that the other person will not be found.

Reckless endangerment is when a person's actions create a **high risk** of **serious** physical injury to another person. An example is when you are driving down the highway and the passenger grabs the steering wheel, trying to force you off the road and making it likely that you will get in a serious car accident.

Robbery is when a person uses force, or threatens to use force, to take money or property from another person. The money or property must be physically on or very near the other person when the force is used or the threat is made.

Sexual crimes include all forms of sexual assault, sexual abuse of a minor, incest, and indecent exposure. Sexual assault can occur even if the parties are married. Crimes involving making pornography with minors are included, but other pornography-related crimes generally are not.

Stalking is when someone repeatedly contacts another person without that person's consent, **and** the contacts would reasonably make the other person afraid of physical injury or death.

Terroristic threatening is when someone claims that a life-threatening situation exists that places another person in fear of physical injury. An example is calling you on the phone and threatening to shoot you when you leave the house. It is also a crime if the threat causes evacuation of a building or similar serious inconvenience to a group of people.

Violating a protective order is when a person does something that the person was prohibited from doing by a domestic violence, stalking, or sexual assault protective order.